

Remarks

Claims 28-36 and 42-49 are in the application. Claims 28 and 42 are in independent form. Reconsideration is requested.

The specification is objected to because page 22, line 17, refers to "Figure 3A." The specification has been amended to refer to "Figure A3" to correct the typographical error. Applicants request that this objection be withdrawn.

Claims 28-35 stand rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. With regard to claim 28 the examiner states that the "software for merging the flight navigation waypoints with a selected flight chart from among plural flight charts to form a selected composite flight navigation chart" and "software for providing a vector drawing extension" fail to meet the written description requirement. Applicants respond as follows.

Claim 28 has been amended to more closely conform to the language of the specification. For example, the recited software for overlaying flight navigation data recited in the amended claim is described beginning at page 16, line 19 of the application:

the charts are created in three distinct steps. These steps are: 1) Create a Background image (e.g. topographical, geopolitical, and water features), 2) overlay Navdata (e.g. airport, navigation aids, airways, roads, towns, obstructions etc.) and 3) add chart text labels.

This description refers to Fig. A2, which shows the software components of the chart generator system.

Amended claim 28 also recites software for providing over a computer network to a browser on a client computer the selected composite flight navigation chart and an overlying frame for drawing a vector route line over the selected composite flight navigation chart. These features are described in the application beginning at page 23, line 15:

2) To accomplish the requirements of drawing vectored lines and features on a chart on the Client computer, a software system residing on the Server (1) generates an Internet Web site (32) with n number of web pages (33). One of these Internet web pages (34) is uploaded from the Server (1) to the Client (4) and in this invention, is designed to incorporate three frames. These three frames are contained in one parent frame (35), this allows the scrolling of the Background chart image and route to remain synchronized while only one frame is visible to the Client user, the other two frames provide important functions. In the preferred embodiment, the background frame (36) contains the viewable chart (e.g. the frame is visible). The foreground frame (37) is transparent except for the route line (38) and or waypoints features to be overlaid on the chart background frame (36).

This description refers to Fig. A3, which shows a vector route line 38 drawn on a transparent foreground frame 37. Claims 29 and 30 have been amended to be consistent with claim 28. Amended claim 28 and its dependent claims recite subject matter that more literally conforms to language in the specification. Applicants request, therefore, that this rejection be withdrawn.

Claim 28 stands under 35 USC 102(b) for anticipation by Delorme (US Pat. No. 5,948,040). Applicants respond as follows.

Delorme is directed to a consumer-level travel reservation and routing system.

An advantage of the invention is that travel planning can be optimized in an iterative process which incorporates reserving, purchasing, and ticketing the planned travel quickly and personally. The user constructs a travel route and at the same time constructs a customized travel log for previewing the initial travel route. On the basis of the multimedia preview of the initial travel route, the trip planner undertakes revision of the travel route, e.g. by changes in the selected transportation routes, waypoints, and selected POIs. The travel route is recalculated by the TRIPS software through reservation system links and

the user-customized travelog is also reconstructed for further preview. Further refinements can follow in subsequent iterations until a satisfactory travel route is achieved and a ticket purchase is made through ticketing system links. All accounting and transaction information is tracked by the TRIPS software and a hard-copy ticket and map are then immediately printed for the user. (Col. 7, lines 36-52.)

As described throughout the application, the flight plan generating software of the present invention is directed to use by aircraft pilots for planning aircraft flights. For clarification, claim 28 has been amended to recite "aircraft pilot flight plan generating software."

Delorme does not teach or suggest a flight-planning system by which a pilot generates a flight plan, as recited in independent claim 28. Instead, Delorme is directed to a non-pilot consumer who either plans a driving or road trip or orders tickets for travel on a common carrier (e.g., airline, train, bus, or ferry, see Delorme, claim 24). Moreover, Delorme provides no teaching or suggestion of using "flight navigation charts." The road maps shown in Figs. 1 and 5 of Delorme are not "flight navigation charts," as recited in the claims.

Furthermore, Delorme provides no teaching or suggestion of providing over a selected composite flight navigation chart and an overlying frame for drawing a vector route line over the selected composite flight navigation chart to a browser on a client computer. As described in the application beginning at page 23, line 4, the combination of the composite flight navigation chart and the overlying frame allows the significant amount of information employed in aircraft pilot flight planning to be provided over a computer network to a browser on a client computer with minimal delays during scrolling of the chart by the user, for example. Delorme provides no teaching or suggestion of such a layered structure for navigational information.

As illustrated in Fig. 1B (reproduced below), Delorme does not teach or suggest merged navigation charts. Instead, Delorme describes a display format in which different types of information are rendered as separate and distinct window:

FIG. 1B pictures a single "frame" or "page" of a larger set of TRIPS output. Typical TRIPS travel plans often include related multiple screens, digital frames and/or pages or sheets of paper, for longer, more complicated, itineraries and/or to show more detail at the user's option. TRIPS travel plans can also be shorter and simpler than the FIG. 1B example. (Delorme, col. 18, lines 32-39.)

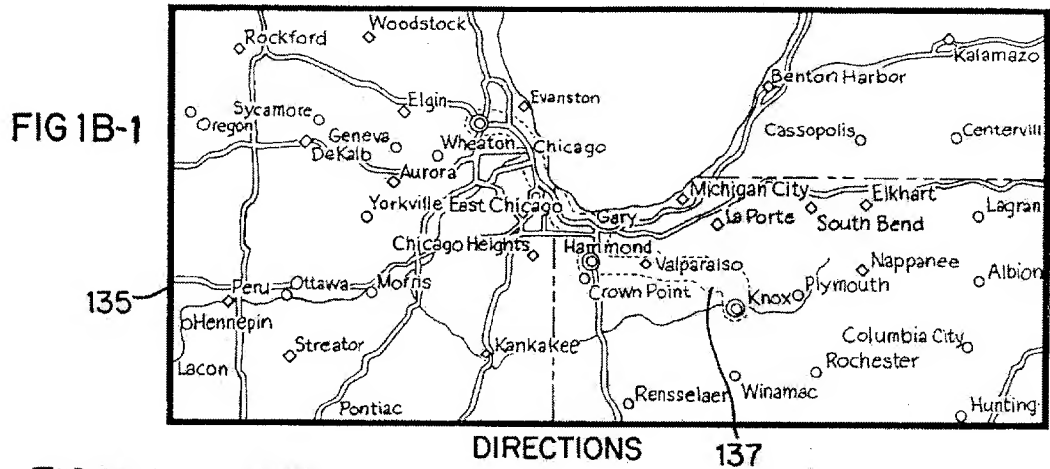
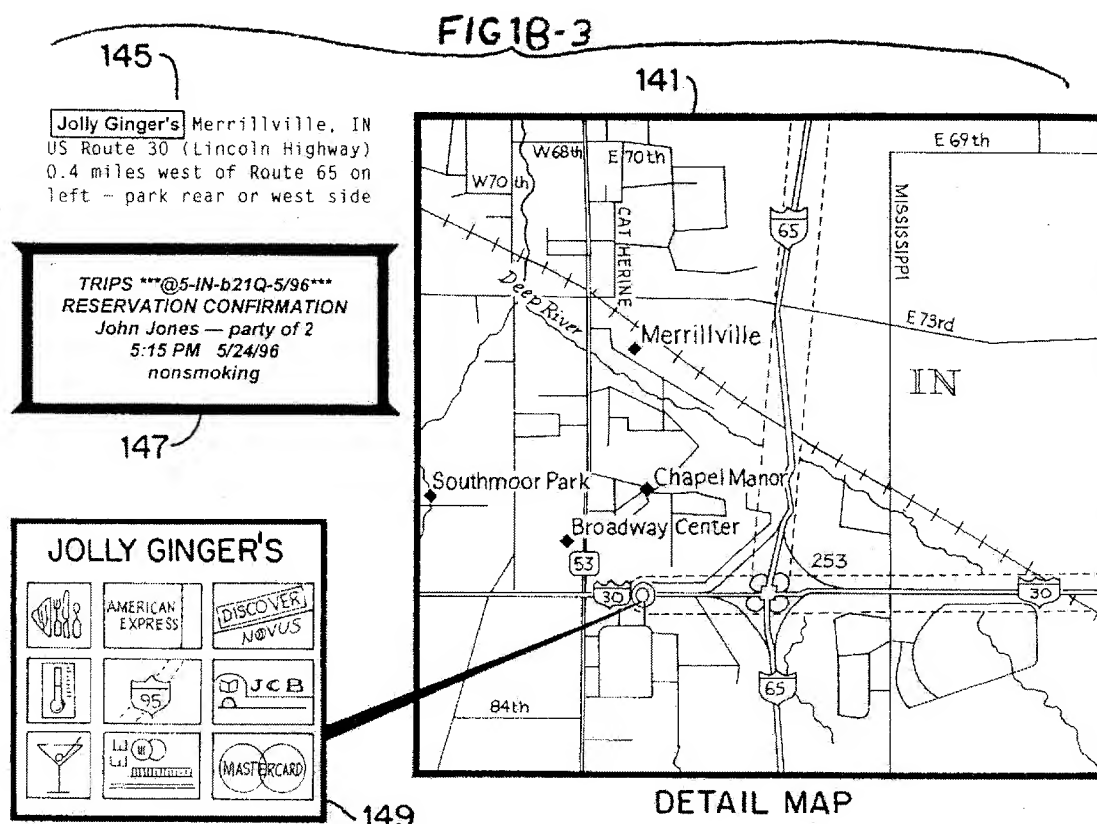


FIG 1B-2 139

| | Road | Dir | Near | Exit # | Time | Dist | Mi |
|---|--|-----|------------------|--------|------|------|-----|
| 1 | START - Knox, IN | | | | | | |
| 2 | US 35 (SR 8, CR 400 E, Heat | N | Knox, IN | | 0:00 | 0.0 | 0.2 |
| 3 | US 35 (SR 8, CR 400 E) | N | Knox, IN | | 0:00 | 0.1 | 6 |
| 3 | US 30 | W | | | 0:08 | 6.4 | 38 |
| 4 | STOP - Jolly Ginger's, IN | | | | | | |
| 4 | US 30 (Lincoln Hwy) | E | Merrillville, IN | | 0:59 | 44.5 | 0.4 |
| 5 | I-65 | N | Merrillville, IN | 253 | 1:00 | 44.9 | 9 |
| 6 | I-90 (East-West Toll Rd) | NW | | 17 261 | 1:09 | 54.1 | 45 |
| 7 | I-190 | W | | 78 | 2:00 | 99.6 | 3 |
| | FINISH - Chicago O'Hare Intl (ORD), IL | | | | | | |

TOTAL DISTANCE: 103 MI, TOTAL TIME: 2:03



Moreover, applicants submit that Delorme provides no teaching or suggestion of an overlying frame specifically for drawing a vector route line over a flight navigation chart. The Examiner states that "a vector drawing extension is inherently disclosed in Delorme" because the Delorme software "should provide a vector drawing extension for the browser in order to retrieve the ...chart (map) from the computer network." Applicants submit that that the rejection based on an "inherency" of vector drawn route lines being disclosed by Delorme is improper and should be withdrawn. As set forth in MPEP 2112:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the

thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)

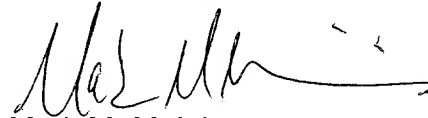
Even in the rejection, the Examiner notes that Delorme "should" have a vector drawing feature, not that Delorme "necessarily" requires such a feature, as required by the case law cited above. It is both feasible and possible that Delorme renders display with graphical tools other than vector drawing, such as with bitmapped representations or recalled graphical representations. Applicants submit that nothing in Delorme necessarily requires use of vectored route lines.

Accordingly, applicants submit that claim 28 and its dependent claims are patentably distinct from Delorme. Added claims 42-49 recite as a method the subject matter of claims 28-35. Applicants submit that added claims 42-49 are allowable for the reasons set forth above with respect to claim 28 and its dependents.

Applicants believe the application is in condition for allowance and respectfully request the same.

IPSOLON LLP
111 SW COLUMBIA #710
PORTLAND, OREGON 97201
TEL. (503) 249-7066
FAX (503) 249-7068

Respectfully Submitted,



Mark M. Meininger
Registration No. 32,428